

MT LEGISLATIVE HISTORY

Chapter 563 1987

Bill (H) 791 S _____

Original bill & hist. 1/C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) MAR 15 ✓C

Hearing Date(s) MAR 15 ✓C

MAR 12 ✓C

MAR 17 ✓C

_____ C

_____ C

_____ C

_____ C

Date Out MAR 12 ✓C

MAR 27 ✓C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE BILL NO. 791

INTRODUCED BY STRIZICH, NISBET, WHALEN, RAMIREZ, ROTH,
CODY, MANNING, BACHINI, SCHYE, MENAHAN, GAGE, MILLER,
BRANDEWIE, SQUIRES, MILES, MANUEL, GIACOMETTO, D. BROWN,
DARKO, DRISCOLL, DEMARS, WALKER, COMPTON, RANEY, THOMAS,
POULSEN, MCCORMICK, PISTORIA, PHILLIPS

IN THE HOUSE

FEBRUARY 17, 1987

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

MARCH 13, 1987

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

STATEMENT OF INTENT ADOPTED.

MARCH 14, 1987

PRINTING REPORT.

MARCH 16, 1987

SECOND READING, DO PASS.

MARCH 17, 1987

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 92; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 18, 1987

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

MARCH 27, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 31, 1987

SECOND READING, CONCURRED IN.

APRIL 1, 1987

ON MOTION, TAKEN FROM THIRD READING
AND PLACED ON SECOND READING.

APRIL 2, 1987

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 3, 1987

THIRD READING, CONCURRED IN.
AYES, 48; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 *House* BILL NO. *791* *Cory*
 2 INTRODUCED BY *Richard E. McInerney* *Barbara L. McInerney* *Michael J. McInerney*
 3 *Miller* *James R. Miller* *James R. Miller* *James R. Miller* *James R. Miller*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A TAX ON *James R. Miller*
 5 THE POSSESSION AND STORAGE OF DANGEROUS DRUGS; PROVIDING FOR *James R. Miller*
 6 THE ASSESSMENT AND COLLECTION OF THE TAX; AND PROVIDING FOR *James R. Miller*
 7 DISPOSITION OF THE TAX COLLECTED." *James R. Miller*

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. This act may be cited as the
 11 "Dangerous Drug Tax Act".

12 Section 2. Definitions. As used in [this act], unless
 13 the context requires otherwise, the following definitions
 14 apply:

15 (1) "Dangerous drug" has the meaning provided in
 16 50-32-101.

17 (2) "Department" means the department of revenue
 18 provided for in 2-15-1301.

19 (3) "Person" means an individual, firm, association,
 20 corporation, partnership, or any other group or combination
 21 acting as a unit.

22 Section 3. Tax on dangerous drugs. (1) There is a tax
 23 on the possession and storage of dangerous drugs. Except as
 24 provided in [section 4], each person possessing or storing
 25 dangerous drugs is liable for the tax. The tax imposed is

1 determined pursuant to subsection (2). The tax is due and
 2 payable on the date of assessment. The department shall add
 3 an administration fee of 1% of the tax imposed pursuant to
 4 subsection (2) to offset costs incurred in assessing value,
 5 in collecting the tax, and in any review and appeal process.

6 (2) The tax on possession and storage of dangerous
 7 drugs is the greater of:

8 (a) 10% of the assessed market value of the drugs, as
 9 determined by the department, or:

10 (b) (i) \$100 per ounce of marijuana, as defined in
 11 50-32-101, or its derivatives, as determined by the
 12 aggregate weight of the substance seized;

13 (ii) \$250 per ounce of hashish, as defined in
 14 50-32-101, as determined by the aggregate weight of the
 15 substance seized;

16 (iii) \$200 per gram of any substance containing or
 17 purported to contain any amount of a dangerous drug included
 18 in Schedule I pursuant to 50-32-222(1), (2), (4), and (5),
 19 or Schedule II pursuant to 50-32-224(1) through (4), as
 20 determined by the aggregate weight of the substance seized;

21 (iv) \$10 per 100 micrograms of any substance containing
 22 or purported to contain any amount of lysergic acid
 23 diethylamide (LSD) included in Schedule I pursuant to
 24 50-32-222(3), as determined by the aggregate weight of the
 25 substance seized;

(v) \$100 per ounce of any substance containing or purported to contain any amount of an immediate precursor as defined under Schedule II pursuant to 50-32-224(5), as determined by the aggregate weight of the substance seized; and

(vi) \$100 per gram of any substance containing or purported to contain any amount of dangerous drug not otherwise provided for in this subsection (2).

(3) The tax imposed pursuant to this section must be collected only after any state or federal forfeitures have been satisfied.

Section 4. Exemptions. The tax imposed pursuant to [section 3] does not apply to any person authorized by state or federal law to possess or store dangerous drugs. The burden of proof of an exemption from [section 3] is on the person claiming it.

Section 5. Statement of tax. A written statement of the assessment and tax due under [section 3] must be presented to the taxpayer by the department.

Section 6. Tax appeal. A person aggrieved by an assessment pursuant to [section 3] or an exemption decision pursuant to [section 4] may appeal the assessment or exemption decision pursuant to Title 15, chapter 2, part 3.

Section 7. Tax lien. The tax imposed pursuant to [section 3], together with interest and penalties, is a lien

in favor of the state as provided in Title 15, chapter 16, part 4. The lien attaches at the time the tax is assessed and is enforceable in the same manner as other tax liens.

Section 8. Accounts. (1) There is an institutions evaluation special revenue account within the state treasury. One-half of the taxes collected under [section 9] shall be deposited in the account.

(2) There is a chemical abuse assessment special revenue account within the state treasury. One-half of the taxes collected under [section 9] shall be deposited in the account.

Section 9. Disposition of proceeds. The department shall transfer all taxes collected pursuant to [this act], less the administrative fee authorized in [section 3(1)], to the state treasurer on a monthly basis. The state treasurer shall deposit one-half of the tax to the credit of the department of institutions to be used for the youth evaluation program and chemical abuse aftercare programs. The treasurer shall credit the remaining one-half of the tax to the department of justice to be used for grants to youth courts to fund chemical abuse assessments and the detention of juvenile offenders in facilities separate from adult jails.

Section 10. Codification instruction. Sections 1 through 9 are intended to be codified as an integral part of

- 1 Title 15, and the provisions of Title 15 apply to sections 1
- 2 through 9.

-End-

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a tax on the possession and storage of dangerous drugs; providing for the assessment and collection of the tax; and providing for disposition of the tax collected.

ASSUMPTIONS:

The fiscal impact on state government cannot be determined because the amount of possible revenue generated is unknown.

FISCAL IMPACT:

Expenditures:

Unknown.

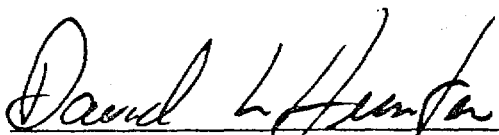
Revenues:

The proposed legislation would generate general fund revenue to offset the cost of youth evaluation and chemical abuse after care programs and the detention of youth in facilities separate from adults. However, the amount of possible revenues generated cannot be determined for the following reasons:

1. The ability to pay of persons in possession of such drugs is unknown.
2. The amount of revenues generated could vary depending upon the level and availability of investigative and enforcement resources.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Unknown.

 DATE 2/20/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE _____
BILL STRIZICH, PRIMARY SPONSOR
Fiscal Note for HB791, as introduced.

HB 791

APPROVED BY COMMITTEE
ON TAXATION

STATEMENT OF INTENT

HOUSE BILL 791

House Taxation Committee

A statement of intent is required for this bill because it allows the department of revenue to adopt rules for the administration and enforcement of this tax.

It is the intent of the legislature that the department of revenue adopt rules that:

(1) prescribe the forms of the tax returns and reports required by this act and the time for filing such returns and reports;

(2) require the taxpayer to keep such records and provide such information to the department of revenue necessary to assess the tax;

(3) define and clarify the terms and words used in this act;

(4) set the time, circumstances, and conditions for the compliance of law enforcement agencies with section 5 of this act;

(5) prescribe rules of procedure for administrative hearing under this act before the department; and

(6) prescribe rules for refunds of the tax.

SECOND READING
HB - 791

STATUS SHEET

50th LEGISLATIVE SESSION

TAXATION COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
776	2/16/87	3/4/87				3/18/87					
782	2/16/87	3/9/87				3/18/87					
785	2/16/87	2/23/87	2/23/87	tabled							
791	2/18/87	3/5/87				3/12/87					
794	2/18/87	3/3/87				3/10/87					
807	2/18/87	3/3/87	3/17/87	tabled							
811	2/18/87	3/10/87	3/16/87	tabled							
813	2/19/87	3/5/87				3/19/87					
816	2/18/87	3/5/87				3/19/87					
817	2/18/87	2/19/87	referred to Business and Labor								
817	2/19/87	3/5/87				3/6/87					
821	2/18/87	3/10/87				3/19/87					
826	2/18/87	3/5/87	3/16/87	tabled							

CONSIDERATION OF HOUSE BILL NO. 791: Rep. Bill Strizich, House District #41, sponsor of HB 791, said the bill would create a controlled substance tax for possession and storage of dangerous drugs. Rep. Strizich provided copies of a drug confiscation list and an article from the Wall Street Journal (Exhibits #3 and #4) and said the tax is substantial, but appropriate. He also provided copies of proposed amendments (Exhibit #5).

PROPOSERS OF HOUSE BILL NO. 791: Michael Murray told the Committee he represented 31 chemical dependency treatment centers in the state, and said revenue from such a tax would help in funding these programs.

Gary Carroll, Department of Justice, Criminal Investigation Division, said he is not an attorney and has no legal opinion, but has supported the concept for four years. Mr. Carroll said the amendment would help with enforcement, and commented that the figures for marijuana on the drug confiscation list are a little low.

OPPOSERS OF HOUSE BILL NO. 791: There were no opposers of the bill.

TECHNICAL COMMENTS ON HOUSE BILL NO. 791: Ken Morrison, Administrator, Income Tax Division DOR, told the Committee DOR needs rulemaking authority, as well as to be notified of seizure and possession charges and federal and state forfeitures. Mr. Morris said he had no idea what the percentage should be, but was aware the 1% collection fee is insufficient and may need to be about 5%. He told the Committee he has been in touch with Florida, who has a similar program, and recommended using general DOR lien provisions in Title 15, chapter 1, part 7.

Chairman Ramirez requested that DOR prepare amendments to meet its concerns.

QUESTIONS ON HOUSE BILL NO. 791: Rep. Patterson asked if the penalty for evasion were stiff. Ken Morrison replied he assumed standard evasion procedures would apply.

CLOSING ON HOUSE BILL NO. 791: Rep. Strizich made no closing comments.

CONSIDERATION OF HOUSE BILL NO. 826: Rep. Nancy Keenan, House District #66, sponsor of HB 826, said the bill would provide for a tax on realty transfers. She explained that section 5 on page 5 of the bill contains new language to provide for recording of a deed, section 6 provides rulemaking authority, section 7 excludes the tax on a title when a mortgage is paid off, section 8 concerns penalties,

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 5, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

DATE 3-5-87
HB 791

COMMITTEE

DATE March 5, 198

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EX
3-5-87
Strizich

EXHIBIT 791
DATE 3-5-87
HB 791

AMENDMENTS TO HB 791, INTRODUCED COPY, PROPOSED BY REP. STRIZICH.

1. Page 1, line 8.

Following: the title

Insert: "WHEREAS, dangerous drugs are commodities having considerable value, and the existence in Montana of a large and profitable dangerous drug industry and extensive trade in dangerous drugs is irrefutable; and

WHEREAS, the state does not endorse the manufacturing of or trading in dangerous drugs and does not consider the use of such drugs to be acceptable, but it recognizes the economic impact upon the state of the manufacturing and selling of dangerous drugs; and

WHEREAS, it is appropriate that some of the revenue generated by this tax be devoted to continuing investigative efforts directed toward the identification, arrest, and prosecution of individuals involved in conducting illegal continuing criminal enterprises that affect the distribution of dangerous drugs in Montana.

THEREFORE, the Legislature of the State of Montana does not wish to give credence to the notion that the manufacturing, selling, and use of dangerous drugs is legal or otherwise proper, but finds it appropriate in view of the economic impact of such drugs to tax those who profit from drug-related offenses and to dispose of the tax proceeds through providing additional anticrime initiatives without burdening law abiding taxpayers."

2. Page 4, line 12.

Following: "proceeds."

Insert: "(1)"

3. Page 4, line 15.

Following: "basis."

Insert: "(2)"

4. Page 4, line 19.

Following: line 18

Insert: "(3)"

Following: "tax"

Insert: "proceeds as follows: (a) 85%"

5. Page 4, line 23.

Following: "jails"

Insert: "; and (b) 15% to the special law enforcement assistance account created in 44-13-101 for the activities described in 44-13-103"

TAXATION COMMITTEE

Page 3

March 12, 1987

Rep. Williams made a motion that HB 743 DO PASS. Rep. Harp made a motion to approve the DOR amendment. The motion CARRIED unanimously.

Rep. Ellison made a motion that HB 743 DO PASS AS AMENDED. The motion CARRIED with all members voting aye, except Reps. Koehnke, Hoffman, and Raney, who voted no.

DISPOSITION OF HOUSE BILL NO. 791: Rep. Ream made a motion that HB 791 DO PASS and that Rep. Strizich' amendment and DOR's amendments be approved, (Exhibits #4 and #5). The motions for both amendments CARRIED unanimously.

Rep. Ream made a motion to approve the Statement of Intent. The motion CARRIED unanimously.

Rep. Ream made a motion that HB 791 DO PASS AS AMENDED.

Rep. Williams commented he felt it was inappropriate to tax illegal possession of dangerous drugs. Greg Groepper replied that the federal government originally established a federal stamp tax in the 1930's on marijuana. He said the DOR amendment replaces the section on lines with a warrant for restraint, and utilizes the usual tax collection method.

The motion made by Rep. Ream CARRIED with all members voting aye, except Rep. Williams, who voted no.

DISPOSITION OF HOUSE BILL NO. 756: Rep. Patterson reported that the study subcommittee felt the Committee could not afford the bill.

Rep. Williams stated the bill is related to several other bills and that he would like to see it tabled until it is known what will happen to the classification system.

Rep. Patterson made a motion that HB 756 be TABLED. The motion CARRIED with all members voting aye, except Rep. Raney, who voted no.

DISPOSITION OF HOUSE BILL NO. 222: Rep. Patterson provided copies of a DOR amendment (Exhibit #6). Chairman Ramirez advised the Committee would hold off action on the bill until March 13, in the interest of time.

CONSIDERATION OF HOUSE BILL NO. 850: Rep. Randy Roth, House District #96, sponsor of HB 850, said the bill would reduce property taxes in all classes by 30%, and commented that CI-27 passed in every precinct in his district.

PROPOSERS OF HOUSE BILL NO. 850: There were no proponents of the bill.

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar 12

NAME	PRESENT	ABSENT	EXCUS
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN			✓
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

Mr. Speaker: We, the committee on HOUSE TAXATIONreport HOUSE BILL NO. 791☒ do pass
☐ do not pass☐ be concurred in
☐ be not concurred in☒ as amended
☒ statement of intent attachedRepresentative Jack Ramirez, Chairman

AMENDMENTS AS FOLLOWS

1) Title, line 6

Following: "TAX;"

~~AND~~ ← strike "AND"

Insert: "GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; PROVIDING FOR FUNDING OF THE ADMINISTRATION OF THE TAX; STATUTORILY APPROPRIATING THE ADMINISTRATIVE FUNDING;"

2) Title, line 7

Following: "COLLECTED"

Insert: "; AND AMENDING SECTION 17-7-502, MCA"

3) Page 1, line 8

Following: line 7

Insert: "WHEREAS, dangerous drugs are commodities having considerable value, and the existence in Montana of a large and profitable dangerous drug industry and expensive trade in dangerous drugs is irrefutable; and

WHEREAS, the state does not endorse the manufacturing of or trading in dangerous drugs and does not consider the use of such drugs to be acceptable, but it recognizes the economic impact upon the state of the manufacturing and selling of dangerous drugs; and

WHEREAS, it is appropriate that some of the revenue generated by this tax be devoted to continuing investigative efforts directed toward the identification, arrest, and prosecution of individuals involved in conducting illegal continuing criminal enterprises that affect the distribution of dangerous drugs in Montana.

THEREFORE, the Legislature of the State of Montana does not wish to give credence to the notion that the manufacturing, selling, and use of dangerous drugs is legal or otherwise proper, but finds it appropriate in view of the economic impact of such drugs to tax those who profit from drug-related offenses and to dispose of

March 12 19 87

the tax proceeds through providing additional anticrime initiatives without burdening law abiding taxpayers."

4) Page 2, line 3

Following: "of"

Strike: "18"

Insert: "58"

5) Page 3, lines 17 through 19

Following: "5." on line 17

Strike: remainder of line 17 through line 19 in its entirety

Insert: "Administrative and enforcement--department rules."

(1) All law enforcement personnel and peace officers shall promptly report each person subject to the tax to the department together with such other information which the department may require in a manner and on a form prescribed by the department.

(2) The deficiency assessment provisions of 15-53-105, the civil penalty and interest provisions of 15-53-111, the criminal penalty provisions of 15-30-321(3), the estimation of tax provisions of 15-53-112 and the statute of limitations provisions of 15-53-115 apply to this tax and are fully incorporated by reference in this chapter. The department may adopt such rules as are necessary to administer and enforce the tax."

6) Page 3, line 24 through line 3, page 4

Following: "7." on line 24 of page 3

Strike: remainder of line 24 through Page 4, line 3 in its entirety

Insert: "Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded."

7) Page 4, line 12

Following: "proceeds."

Insert: "(1)"

8) Page 4, line 15

Following: "basis."

Insert: "(2)"

Representative Jack Ramirez Chairman.

March 12 1987

9) Page 4, line 19

Following: line 18

Insert: "(3)"

Following: "tax"

Insert: "proceeds as follows: (a) 85%"

10) Page 4, line 23

Following: "jails"

Insert: "; and (b) 15% to the special law enforcement assistance account created in 44-13-101 for the activities described in 44-13-103"

11) Page 04, line 24

Following: line 23

Insert: "Section 10. Special revenue account. (1) There is created a special revenue fund to be called the dangerous drug tax administration fund.

(2) All administrative fees collected under [Section 3(1)] shall be deposited by the department into the dangerous drug tax administration fund.

(3) The money in the dangerous drug tax administration fund may be expended by the department to administer the tax and pay any refund required by this chapter.

(4) The appropriation made in subsection (3) is a statutory appropriation as provided in 17-7-502, MCA.

Section 11. Section 17-7-502, MCA, is amended to read:

17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations:

(a) 2-9-702;

(b) 2-17-105

(c) 2-18-812;

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Representative Jack Ramirez, Ch.

(d) 10-3-203;
(e) 10-3-313;
(f) 10-3-314;
(g) 10-4-301;
(h) 13-37-304;
(i) 15-31-702;
(j) 15-36-112;
(k) 15-70-101;
(l) 16-1-404;
(m) 16-1-410;
(n) 16-1-411;
(o) 17-3-212;
(p) 17-5-404;
(q) 17-5-424;
(r) 17-5-904;
(s) 19-8-504;
(t) 19-9-702;
(u) 19-9-1007;
(v) 19-10-205;
(w) 19-10-305;
(x) 19-10-506;
(y) 19-11-512;
(z) 19-11-513;
(aa) 19-11-606;
(bb) 19-12-301;
(cc) 19-13-604;
(dd) 20-6-406;
(ee) 20-9-111;
(ff) 21-5-612;
(gg) 37-51-501;
(hh) 53-24-206;
(ii) 75-1-1101;
(jj) 75-7-305;
(kk) 80-2-103;
(ll) 80-2-118;
(mm) 90-3-301;
(nn) 90-3-302;
(oo) 90-15-103;
(pp) Sec. 13, HB 861, L. 1985 and
(qq) [Section 10].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of

Representative Jack Ramirez Chairman.

Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments.

Reamur: subsequent section

12) Page 4, line 25.

Strike: "9"

Insert: "10"

13) Page 5, line 2.

Strike: "9"

Insert: "10"

STATEMENT OF INTENT

A statement of intent is required for this bill because it allows the department of revenue to adopt rules for the administration and enforcement of this tax.

It is the intent of the legislature that the department of revenue adopt rules that:

(1) prescribe the forms of the tax returns and reports required by the Act, and the time for filing such returns and reports;

(2) require the taxpayer to keep such records and provide such information to the department of revenue necessary to assess the tax;

(3) define and clarify the terms and words used in this Act;

(4) set the time, circumstances and conditions for the compliance of law enforcement agencies with section 5, of the Act;

(5) prescribe rules of procedure for administrative hearing under this Act before the department; and

(6) prescribe rules for refunds of the tax.

3-12-01
HB 791
DOR - Ken Morrison
amend

HB 791

STATEMENT OF INTENT

HB 791 4+5
DATE 3-12-01
791

Ex 4

A statement of intent is required for this bill because it allows the department of revenue to adopt rules for the administration and enforcement of this tax.

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(3) define and clarify the terms and words used in this Act;

(4) set the time, circumstances and conditions for the compliance of law enforcement agencies with section 5, of the Act;

(5) prescribe rules of procedure for administrative hearing under this Act before the department; and

(6) prescribe rules for refunds of the tax.

HOUSE BILL 791
AMENDMENTS

1. Title, line 6.

Following: "TAX;"

Insert: "GRANTING RULE MAKING AUTHORITY TO THE DEPARTMENT OF
REVENUE; PROVIDING FOR FUNDING OF THE ADMINISTRATION OF THE
TAX;"

2. Page 2, line 3

Following: "of"

Strike: "1%"

Insert: "5%"

3. Page 3, lines 17 through 19

Strike: section 5 in its entirety

Insert: "Section 5 Administration and Enforcement - Department
Rules.

(1) All law enforcement personnel and peace officers shall promptly report each person subject to the tax to the department together with such other information which the department may require in a manner and on a form prescribed by the department.

(2) The deficiency assessment provisions of 15-53-105, the civil penalty and interest provisions of 15-53-111, the criminal penalty provisions of 15-30-321(3), the estimation of tax provisions of 15-53-112 and the statute of limitations provisions of 15-53-115 apply to this tax and are fully incorporated by reference in this chapter. The department may adopt such rules as are necessary to administer and enforce the tax.

4. Page 3, line 24 through 25, page 4, line 1, through 3

Strike: "section 7 in its entirety"

Insert: "Section 7. Warrant for Dstraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for dstraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded."

5. Page 4, line 24

Following: line 23

Insert: Section 10. Special revenue account. (1) There is created a special revenue fund to be called the dangerous drug tax administration fund.

(2) All administrative fees collected under [Section 3(1)] shall be deposited by the department into the dangerous drug tax administration fund.

(3) The money in the dangerous drug tax administration fund may be expended by the department to administer the tax and pay any refund required by this chapter.

(4) The appropriation made in subsection (3) is a statutory appropriation as provided in 17-7-502, MCA.

Section 11. Section 17-7-502, MCA, is amended to read:

17-7-502. Statutory appropriations - definition- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations:

- (a) 2-9-202;
- (b) 2-17-105;
- (c) 2-18-812;
- (d) 10-3-203;
- (e) 10-3-312;
- (f) 10-3-314;
- (g) 10-4-301;
- (h) 13-37-304;
- (i) (Section 10)
- {i+} (j) 15-31-702;
- {j+} (k) 15-36-112;
- {k+} (l) 15-70-101;
- {l+} (m) 16-1-404;
- {m+} (n) 16-1-410;
- {n+} (o) 16-1-411;
- {o+} (p) 17-3-212;
- {p+} (q) 17-5-404;
- {q+} (r) 17-5-424;
- {r+} (s) 17-5-804;
- {s+} (t) 19-8-504;
- {t+} (u) 19-9-702;
- {u+} (v) 19-9-1007;
- {v+} (w) 19-10-205;
- {w+} (x) 19-10-305;
- {x+} (y) 19-10-506;
- {y+} (z) 19-11-512;
- 19-11-513;
- {z+} (aa) 19-11-606
- {aa+} (bb) 19-12-301;
- {bb+} (cc) 19-13-604;
- {cc+} (dd) 20-6-406;
- {dd+} (ee) 20-8-111;
- {ee+} (ff) 23-5-612;
- {ff+} (gg) 37-51-501;
- {gg+} (hh) 53-24-206;
- {hh+} (ii) 75-1-1101;
- {ii+} (jj) 75-7-305;

~~(jjj)~~ (kk) 80-2-103;
~~(kkk)~~ (ll) 80-2-228;
~~(lll)~~ (mm) 80-3-301;
~~(mmm)~~ (nn) 90-3-302;
~~(nnn)~~ (oo) 90-15-103;
~~(eee)~~ (pp) Sec. 13, HB 861, L. 1985.
~~(ppp)~~ (qq) (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana Agencies that have entered into agreements authorized by the of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest due on the bonds or notes have statutory appropriation authority for such payments."

4. Page 4, line 24
Following: "Section"
Strike: "10"
Insert: "12"

FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) TAXATION

RUN DATE..... 04/22/87

CHAIRMAN--SEN. GEORGE MCCALLUM
NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: MON THRU FRI TIME: 8:00 A.M.

SECRETARY-AGGIE HAMILTON

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0741	3/24				BUSINESS & LABOR	
HARP, JOHN			REGULATION OF HEALTH SERVICE CORPORATIONS			
HB0743	3/18	3/25	3/30, 4/2, 4/8, 4/10	CONCUR AS AMENDED		4/11
SALES, WALT			AMEND PROPERTY TAX AND ASSESSMENT SALE -- REDEMPTION TIME BASED ON HOMESTEAD			
HB0751	3/23	3/30		CONCUR AS AMENDED		3/30
WINSLOW, CAL			TAX EXEMPTION TO PREVENT DISMANTLING OF NONPRODUCING MFG. IMPROVEMENT			
HB0776	3/25	4/03		CONCUR AS AMENDED		4/11
NATHE, DENNIS			EXEMPT FROM SEVERANCE TAX ALL STRIPPER WELLS & ALL OTHER WELLS FOR 2 YEARS			
HB0782	3/25	4/02	4/10	CONCUR AS AMENDED		4/11
SANDS, JACK			LOCAL OPTION SALES OR INCOME TAX			
HB0791	3/18	3/25		CONCUR		3/27
STRIZICH, BILL			DANGEROUS DRUG TAX ACT			
HB0794	3/16	3/23		CONCUR		3/27
WILLIAMS, MEL			PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITAL & OUTPATIENT CENTERS			
HB0795	3/18	3/26		CONCUR	FINANCE & CLAIMS	3/27
GILBERT, BOB			INCORPORATES REGULATION OF CLASS II INJECTION WELLS IN THE OIL AND GAS LAWS			
HB0813	3/24	3/27		CONCUR AS AMENDED		4/3
COHEN, BEN			SETTING FEE IN LIEU OF TAXES ON 3-WHEEL AND 4-WHEEL OFF-ROAD VEHICLES			
HB0816	4/10	4/11		CONCUR AS AMENDED		4/11
ASAY, TOM			NEW CLASS 20 PROPERTY FOR AGRICULTURAL PROCESSING AND TIMBER PLANTS			
HB0848	4/10	4/13		CONCUR		4/13
STANG, SPOOK			REFUND PRORATED SHARE OF CERTAIN TAXES PAID IN OTHER STATES			

Dan Bucks said we have tried to simplify our state form but there are specific deductions at the state level that does not follow the federal law. We have a specific state form that is unique to Montana because we follow old federal law. In general, the larger the family the more favorably any married couple is treated. The fewer the dependents and more income, the less favorably they are treated.

Representative Miles closed by stating if we are going to recognize day care expenses, she does not think we should limit it to full time employment.

CONSIDERATION OF HB 791: Representative Strizich, House District 41, presented this bill to the committee. This bill is intended to create a controlled substance tax. It would impose a tax on the possession or storage of any of those substances, defined under statute as dangerous drugs. Drug dealers, under this act, would be levied a tax equal to 10% of the market value of any substance falling under this category. He furnished the committee with an article from The Wall Street Journal in relation to this and a list of drugs and amounts confiscated in 1986, attached as Exhibit 4.

PROPOSERS: None.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Representative Strizich how would you prove ownership to tax it.

Representative Strizich said in a criminal case, there must be proof, beyond a reasonable doubt, that this person is carrying dangerous drugs. In a civil administrative proceeding you must show a preponderance of evidence that this person is storing dangerous drugs.

Senator Hirsch said the word tax bothers him and asked if a penalty could be used.

Representative Strizich when you are talking about a penalty you are talking about a punitive measure and he thinks that would be entering a whole new ball game. We want to have the effect of a tax and, therefore, allow the fairness of our tax system to enter into this.

Senator Halligan asked if there was a threshold amount before the tax would apply.

Representative Strizich said we left that open to any amount.

Senator Neuman asked if he had visited with members of the law enforcement community and are they in support of this law.

Representative Strizich said he has talked with the Department of Justice here and did offer some amendments that make it administratively more easy to handle. Three other states effectively use this law.

Senator Neuman asked John LaFaver if this is something we could legitimately do.

John LaFaver said the way the bill is amended, the only administrative cost that will incur will be paid for by the revenues that would come from the bill. He is somewhat acquainted with the Revenue Director in the state of Minnesota and he views this piece of legislation very seriously. We might get revenue from this specific tax, and in certain instances lead us to income that would otherwise not be taxed. He thinks it is worth a shot.

Senator Mazurek asked if there was any discussion in the House on the earmarking of the money.

Representative Strizich said there was some discussion on that and the feeling was they could go with that given the fact that we really don't know what revenue we are looking at and that is probably as appropriate a place as any to funnel the money.

Senator Eck asked if the illegal storing of prescription drugs would be covered under this.

Representative Strizich said yes.

Senator Halligan referred to page 3, lines 14-17, and asked if the individual at the Department would know the street value of these drugs.

Representative Strizich said that is there in the event we find a drug that isn't publicly contained in statute, so that we could somehow determine a street value of that.

Senator Halligan asked what if you're someone that has been picked up with drugs, but you do not have any money to pay the tax.

John LaFaver said there will be a number of instances where there won't be any revenue collected.

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-25-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

THE WALL STREET JOURNAL

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WESTERN EDITION

WEDNESDAY, DECEMBER 10, 1986

FEDERAL WAY, WASHINGTON

What's News—

Business and Finance

UNITED TECHNOLOGIES will take a \$592 million pre-tax charge for its restructuring program, resulting in a "substantial" fourth-quarter loss. The company said the reorganization, which includes shrinking its work force 6% and reducing operations, will allow it to focus on its "strong core businesses."

(Story on Page 3)

The Supreme Court made it harder for companies to file antitrust suits to block actions by competitors, including proposed mergers. The justices held that a firm must face a real, competitive threat and not simply be hurt by stiffer competition.

(Story on Page 2)

Goldman Sachs is considering raising additional capital, possibly through a stock offering. Despite the recent injection of \$400 million from Citicorp, many at the securities firm believe Goldman must boost capital further to stay competitive.

(Story on Page 2)

Shearson Lehman chief Peter Cohen said an SEC probe of trading in Miller-Globe is focusing on foreign investors and doesn't involve anyone at the securities firm. Cohen and 14

World-Wide

TRAN-CONTRA FIGURES REFUSED to testify, citing fear of self-incrimination.

Former National Security Adviser Poindexter appeared voluntarily before a House Foreign Affairs panel hearing into arms sales to Iran and the diversion of profits to Nicaraguan rebels, but "regrettably" declined to answer questions. Lt. Col. North, a Poindexter aide, also declined to testify about the operation. Meanwhile, as Justice Department aides continued talks with Swiss officials to gain access to records of two secret bank accounts, retired Air Force Gen. Secord, in a closed session of the Senate Intelligence panel, also invoked his Fifth Amendment right. (Story on Page 3)

Shultz traveled to London to begin a "rebuilding job" of allied confidence over U.S. foreign policy, and Moscow and Tehran held their first high-level economic talks since 1979.

CHIRAC CANCELED plans to hold a special parliamentary session next month.

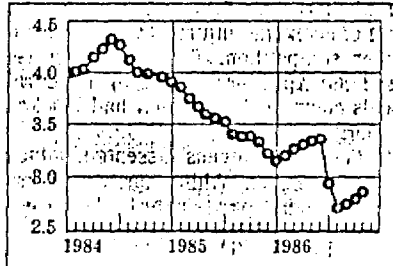
The move by the conservative French premier came in the face of widespread student protests over education legislation that critics said would increase tuition. Some legislative proposals—including the tightening of rules on acquiring French citizenship and allowing prisons to be built and operated by private firms—will be delayed until the regular April session because of Chirac's announcement. (Story on Page 34)

A Paris volunteer group plans to act as a buffer between police and demonstrators to try to avert violence at a student-led protest march today.

The Philippine government resolved a dispute with communist rebels.

Aluminum Production

Annual rate, in millions of metric tons.



ALUMINUM PRODUCTION in the U.S. rose to an annual rate of 2,866,698 metric tons in October, from 2,805,998 metric tons in September, the Aluminum Association reports.

Communist or Not, East Europe Draws Some Exiles Home

Americans on Social Security Can Live Like Capitalists

Back in the Old Country

By BARRY NEWMAN, Staff Reporter of THE WALL STREET JOURNAL

BUDAPEST, Hungary—What price liberty? In America, for the old and poor, it may sometimes seem more costly than it's worth.

It cost too much for Anna and Zoltan Chikos. They had the choice between freedom on a low income amid high crime or retirement in totalitarian luxury. They picked Budapest over Bridgeport.

In Connecticut, Mr. and Mrs. Chikos lived above their tailor shop. In Hungary, the country where both were born, they

Tax Report

A Special Summary and Forecast Of Federal and State Tax Developments

THE GOPHER STATE puts illegal-drug dealers in the hole with a stamp tax.

Since Aug. 1, Minnesota has required dealers to buy tax stamps—\$3.50 a gram for marijuana, \$200 a gram for harder stuff—or pay double tax if caught stampless. Buyers are guaranteed anonymity as a constitutional safeguard, but enforcers see the tax as a tool for squeezing pushers. Only two people ("They may be stamp collectors," says revenue chief Triplett) have bought stamps voluntarily, paying \$900. But the state has assessed taxes of \$6.9 million against 33 persons arrested with unstamped drugs.

Its largest claim was \$3.2 million for half a ton of pot. It has collected only \$17,000 in cash but has seized a lot of property. Several suits claim the tax violates constitutional bars to self-incrimination, but officials believe they are about to win the first to be tried; they say the law avoids flaws that caused South Dakota's drug tax to be overturned. Arizona has required annual licenses for drug dealers and taxed them since 1984, but no licenses are in effect now; it has assessed taxes of \$5.4 million and collected \$219,509.

In July, Florida imposed a 20% tax and related penalties on illegal sales or use of drugs and is gearing up for enforcement.

A BIT OF BLUE shines through the 1987 ceiling on "401(k)" pay deferrals.

The tax act generally trims the maximum amount of pay that an employee may defer in a Section 401(k) retirement plan to \$7,000 in 1987 from the current \$30,000. But many employees who expect 1986 bonuses to

Shopping St

Baby Bells Div Into Non-Phone Spark Much C

Regional Firms A

Of Unwise Ac Using Subsidie

Growth Is Needed

By JOHNNIE L. RO Staff Reporter of THE WALL ST

Several months after U birth in the breakup of the two seasoned miners offered ing proposition: Would the telephone concern like to b the Rocky Mountains?

The miners held preclous there and thought that a would be a good use of the land. Itching to diversify, U S West listened to the p spurning it.

"Just because they had sounded offbeat didn't me them out the door," a U S W says, adding: "We aren't inte iting ideas for diversifying."

And diversify it has, along other regional Bell telephone panies that American Telep graph Co. divested itself of. T the breakup on Jan. 1, 1984, Corp. announced a proposal ing company. That set off bing of acquisitions by the s

LIST OF DRUGS AND AMOUNT CONFISCATED IN 1986

Marijuana:	313,931 oz.
Hashish:	31 oz.
LSD:	833 doses
Precursor:	208 oz.
Cocaine:	66 oz.
Depressants:	953 doses
Stimulants:	6,194 doses and 5.46 oz.
PCP:	1 oz.
Morphine:	14.14 oz. and 20 doses
Opium:	38 oz.
Other Depressants:	787 doses
Other Hallucinogens:	40 doses and 2 oz.
Other Opiates:	517 doses and 5.6 oz.
Other Stimulants:	1 oz. and 440 doses
Unknown:	160 doses and 1.8 oz.

SENATE TAXATION

EXHIBIT NO. 4DATE 3-25-87BILL NO. H.B. 791

Senator Eck said if we are going to monitor use of these vehicles, should we have laws that would apply as to what is legal and illegal.

Jim Flynn said there was a bill in the House that did not pass. This is a difficult subject and this is a very simplistic approach.

Senator Lybeck asked if he had checked out the possibility of double taxation in this bill. On his personal property list for his farm his three-wheelers are listed.

Representative Cohen said we are deleting them from the property tax, class 16 property, on page 5 of the bill.

Representative Cohen closed by stating if the committee feels additional funding is necessary for the Department of Fish, Wildlife and Parks to administer this program, he would suggest the fees be increased by \$2 to cover that.

DISPOSITION OF HB 583: Senator Mazurek made a motion that HB 583 BE CONCURRED IN AS AMENDED.

Senator Neuman asked if it was his intention to let the Department collect the tax without having rulemaking authority.

Senator Mazurek said he does not anticipate any problem with that, it has worked so far.

The motion carried with no opposition.

DISPOSITION OF HB 678: Senator Mazurek made a motion that HB 678 BE NOT CONCURRED IN. The motion carried with Senators Eck, Crippen and Brown opposed.

DISPOSITION OF HB 791: Senator Neuman made a motion that HB 791 BE CONCURRED IN. The motion carried.

DISPOSITION OF HB 387: Jim Lear explained that Senator Eck wanted the bill amended as follows: 1) to strike "public hearing" on page 1, lines 12 and 13; 2) strike "as provided in subsection (8)" on page 1, lines 19 and 20; and 3) insert "(8) Within 6 months after the beginning of each biennium, the department shall consult with the revenue oversight committee and incorporate recommendations by the committee as to information to be included in the report to be submitted to the next legislature."

Senator Eck would move the amendments.

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-27-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 27

1937

MR. PRESIDENT

We, your committee on

SENATE TAXATION

having had under consideration

HOUSE BILL

No. 791

third

reading copy (blue)
color

STRIZICH (GAGE)

DAGEROUS DRUG TAX ACT

Respectfully report as follows: That

HOUSE BILL

No. 791

BE CONCURRED IN

ROXPASS

ROXOLPASS

SENATOR GEORGE McCALLUM,

Chairman.